IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2186 of 2005
With
CIVIL APPLICATION - FOR STAY No. 6834 of 2005
In
FIRST APPEAL No. 2186 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
HON'BLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HOTHI MOMIYA KOLI - Appellant(s)

Versus

NEW KANDLA SALT AND ALLIED INDUSTRIES LIMITED & 2 - Defendant(s)

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Appearance :
MR BA VAISHNAV for Appellant No(s).: 1.
None for Respondent No(s).: 1, 2,3.

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CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date : 04/08/2005

ORAL JUDGMENT (Per : HON'BLE MR.JUSTICE M.C.PATEL)

Admit. Ms. Shaili Kapadia waives service of notice

on behalf of respondent no.1. Respondents no. 2 and 3 have been deleted by the order dated 4th August, 2005 passed in Civil Applications No.6312 to 6315 of 2005.

2. This appeal filed by the original claimant under Section 30 of the Workmen's Compensation Act, 1923 is directed against the judgment and award dated 5th April, 2005 passed by the Commissioner in Compensation Case No.69/99 dismissing the said application on the ground that the applicant was not a dependant of the deceased workman. Similar First Appeals No.1653 to 1664 of 2005 arising out of the judgment and order passed in other Compensation Cases were disposed of by our order dated 14th July, 2005. Both the learned counsel for the parties submit that the present appeal also may be disposed of in terms of the said order. In view of this, this appeal is allowed and the Compensation Case No. 69/99 is remanded to the Commissioner with a direction to decide afresh whether the claimant was dependant or not after giving an opportunity to the claimant to give evidence and establish his claim as dependant. It will also be open to the respondent to contend that the appellant is not at all a dependant of the deceased workman and give evidence. It is clarified that, in any case, the

Commissioner cannot hold the claimant to be a dependant of more than one deceased workman. The appeal is allowed to the aforesaid extent. The Commissioner shall make every endeavour to dispose of the proceedings at the earliest, preferably within three months from the date of receipt of this order. R & P be sent down immediately. Writ to be sent down immediately.

In view of the order passed in the main Appeal, the Civil Application for stay does not survive and is accordingly disposed of.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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